

Agricultural Marketing Service, USDA

§ 58.29

(b) An appeal inspection shall be limited to a review of the sampling procedure and in analysis of the official sample used, when, as a result of the original inspection, the commodity was found to be contaminated with filthy, putrid, and decomposed material. If it is determined that the sampling procedures were improper, a new sample shall be obtained.

§ 58.23 How to obtain appeal inspection or grading.

Appeal inspection or grading may be obtained by filing a request therefore, (a) with the Administrator, (b) with the inspector or grader who issued the inspection or grading certificate or report with respect to which the appeal service is requested, or (c) with the supervisor of such inspector or grader. The application for appeal inspection or grading shall state the reasons therefore, and may be accompanied by a copy of the aforesaid inspection or grading certificate or report or any other information the applicant may have secured regarding the product or the service from which the appeal is requested. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

§ 58.24 Record of filing time.

A record showing the date and hour when each such application for appeal inspection or grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 58.25 When an application for appeal inspection or grading may be refused.

The Administrator may refuse an application for an appeal inspection or grading when (a) the quality or condition of the products has undergone a material change since the time of original service, (b) the identical products inspected or graded cannot be made accessible for reinspection or regrading, (c) the conditions under which inspection service was performed have changed, (d) it appears that the reasons for an appeal inspection or grading are frivolous or not substantial, or (e) the Act or this part have not been com-

plied with. The applicant shall be promptly notified of the reason for such refusal.

§ 58.26 When an application for an appeal inspection or grading may be withdrawn.

An application for appeal inspection or grading may be withdrawn by the applicant at any time before the appeal inspection or grading is made upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.27 Order in which appeal inspections or gradings are performed.

Appeal inspections or gradings shall be performed, insofar as practicable, in the order in which applications therefor are received; and any such application may be given precedence pursuant to § 58.17.

§ 58.28 Who shall make appeal inspections or gradings.

An appeal inspection or grading of any product or service shall be made by any inspector or grader (other than the one from whose service the appeal is made) designated for this purpose by the Administrator; and, whenever practical, such appeal inspection or grading shall be conducted jointly by two such inspectors or graders.

§ 58.29 Appeal inspection or grading certificate or report.

Immediately after an appeal inspection or grading has been completed, an appeal inspection or grading certificate or report shall be issued showing the results of the inspection or grading. Such certificate or report shall thereupon supersede the previous certificate or report and will be effective retroactive to the date of the previous certificate or report. Each appeal certificate or report shall clearly set forth the number and the date of the previous certificate or report which it supersedes. The provisions of §§ 58.18 through 58.21 shall, whenever applicable, also apply to appeal certificates or reports except that copies shall be furnished each interested party of record.